

AMENDED IN ASSEMBLY JULY 7, 2015
AMENDED IN ASSEMBLY JULY 2, 2015
AMENDED IN ASSEMBLY JUNE 23, 2015
AMENDED IN SENATE JUNE 2, 2015
AMENDED IN SENATE MAY 5, 2015
AMENDED IN SENATE APRIL 15, 2015
AMENDED IN SENATE MARCH 24, 2015

SENATE BILL

No. 9

**Introduced by Senator Beall
(Coauthor: Senator Allen)**

December 1, 2014

An act to amend Sections 75220, 75221, and 75222 of, and to add Sections 75223, 75224, and 75225 to, the Public Resources Code, relating to transportation, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 9, as amended, Beall. Greenhouse Gas Reduction Fund: Transit and Intercity Rail Capital Program.

Existing law requires all moneys, except for fines and penalties, collected by the State Air Resources Board from the auction or sale of allowances as part of a market-based compliance mechanism relative to reduction of greenhouse gas emissions to be deposited in the Greenhouse Gas Reduction Fund.

Existing law establishes the Transit and Intercity Rail Capital Program, which receives 10% of the annual proceeds of the Greenhouse Gas Reduction Fund as a continuous appropriation, to fund capital

improvements and operational investments to modernize California's rail systems to achieve certain policy objectives, including reducing greenhouse gas emissions, expanding and improving rail services to increase ridership, and improving rail safety. Existing law requires the Transportation Agency to evaluate applications for funding under the program and to prepare a list of projects recommended for funding, with grants to be awarded by the California Transportation Commission.

This bill would modify the purpose of the program to delete references to operational investments and instead provide for the funding of transformative capital improvements that will modernize California's intercity, commuter, and urban rail systems and bus and ferry transit systems to achieve certain policy objectives, including reducing emissions of greenhouse gases, expanding and improving transit services to increase ridership, and improving transit safety. By expanding the purposes for which continuously appropriated moneys may be used, the bill would make an appropriation. The bill would modify the information required to be included in applications for grants under the program and would authorize an eligible applicant to submit multiple applications. The bill would require the Transportation Agency, in selecting projects for funding, to consider the extent to which a project reduces greenhouse gas emissions, would add additional factors to be considered in evaluating applications for funding, and would expand certain factors considered to include bus and ferry transit service. The bill would require the Transportation Agency to ~~develop, approve, by July 1, 2016, a 5-year estimate of revenues reasonably expected to be available for the program, with subsequent estimates to be made every other year for additional 5-year periods, would require the agency to approve 5-year programs~~ *a 5-year program of projects consistent with those estimates, projects, and would require the California Transportation Commission to allocate funding to eligible applicants pursuant to the program of projects, projects, with subsequent programs of projects to be approved not later than April 1 of each even-numbered year thereafter.* The bill, *at the request of an eligible applicant,* would authorize the Transportation Agency, in cooperation with the California Transportation Commission, to make a multiyear funding commitment for a project ~~proposed~~ to be funded over more than one fiscal year, and would authorize the California Transportation Commission to approve a letter of no prejudice that would allow an applicant to expend its own moneys on a project in the approved program of projects, subject to future reimbursement from program moneys for eligible expenditures.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 75220 of the Public Resources Code is
2 amended to read:

3 75220. (a) The Transit and Intercity Rail Capital Program is
4 hereby created to fund transformative capital improvements that
5 will modernize California's intercity, commuter, and urban rail
6 systems and bus and ferry transit systems to achieve all of the
7 following policy objectives:

- 8 (1) Reduce emissions of greenhouse gases.
- 9 (2) Expand and improve transit service to increase ridership.
- 10 (3) Integrate the rail service of the state's various rail operators,
11 including integration with the high-speed rail system.
- 12 (4) Improve transit safety.

13 (b) The Transportation Agency shall evaluate applications
14 consistent with the criteria set forth in this chapter and approve a
15 multiyear program of projects for funding pursuant to Section
16 75224, which may be revised at any time.

17 (c) The California Transportation Commission shall allocate
18 funding to applicants pursuant to the program of projects approved
19 by the Transportation Agency.

20 SEC. 2. Section 75221 of the Public Resources Code is
21 amended to read:

22 75221. (a) Projects eligible for funding under the program
23 include, but are not limited to, all of the following:

- 24 (1) Rail capital projects, including acquisition of rail cars and
25 locomotives, that expand, enhance, and improve existing rail
26 systems and connectivity to existing and future transit systems,
27 including the high-speed rail system.
- 28 (2) Intercity and commuter rail projects that increase service
29 levels, improve reliability, and decrease travel times.
- 30 (3) Rail integration implementation, including integrated
31 ticketing and scheduling systems, shared-use corridors, related
32 planning efforts, and other service integration initiatives.
- 33 (4) Bus rapid transit and other bus and ferry transit investments
34 to increase ridership and reduce greenhouse gas emissions.

(b) In order to be eligible for funding under the program, a project shall demonstrate that it will achieve a reduction in emissions of greenhouse gases. In selecting projects for funding, the Transportation Agency shall consider the extent to which a project reduces emissions of greenhouse gases.

(c) The program shall have a programmatic goal of providing at least 25 percent of available funding to projects benefiting disadvantaged communities, consistent with the objectives of Chapter 830 of the Statutes of 2012.

(d) In evaluating grant applications for funding, the Transportation Agency shall consider all of the following:

(1) The cobenefits of projects that support the implementation of sustainable communities strategies through one or more of the following:

(A) Reducing vehicles miles traveled from automobiles and the number of automobile trips through growth in transit ridership.

(B) Promoting housing development in the vicinity of rail stations.

(C) Expanding existing rail and public transit systems.

(D) Enhancing the connectivity, integration, and coordination of the state's various ~~regional and local transit systems~~ systems, including, but not limited to, regional and local transit systems and the high-speed rail system.

~~(E) Providing a direct connection to the high-speed rail system.~~

~~(F)~~

(E) Implementing clean vehicle technology.

~~(G)~~

(F) Promoting active transportation.

~~(H)~~

(G) Improving public health.

(2) The project priorities developed through the collaboration of two or more rail operators and any memoranda of understanding between state agencies and local or regional rail operators.

(3) Geographic equity.

(4) Consistency with an adopted sustainable communities strategy or, if a sustainable strategy is not required for a region by law, a regional plan that includes policies and programs to reduce emissions of greenhouse gases.

(5) The extent to which a project has supplemental funding committed to it from other nonstate sources.

1 (6) The extent to which the project will increase transit ridership.

2 (e) Eligible applicants under the program shall be public
3 agencies, including joint powers agencies, that operate or have
4 planning responsibility for existing or planned regularly scheduled
5 intercity or commuter passenger rail service, urban rail transit
6 service, or bus or ferry transit service.

7 (f) A recipient of moneys under the program may combine
8 funding from the program with other state funding, including, but
9 not limited to, the State Transportation Improvement Program, the
10 Low Carbon Transit Operations Program, the State Air Resources
11 Board clean vehicle program, and state transportation bond funds.

12 SEC. 3. Section 75222 of the Public Resources Code is
13 amended to read:

14 75222. (a) Applications for grants under the program shall be
15 submitted to the Transportation Agency for evaluation in
16 accordance with procedures and program guidelines approved by
17 the agency. An eligible applicant may submit an application to the
18 agency to fund a project over multiple fiscal years. The agency
19 may make multiyear funding commitments for projects that are
20 proposed *by an eligible applicant* to be funded from the program
21 over a period of more than one fiscal year.

22 (b) The application shall define the project purpose, intended
23 scope, proposed cost, intended funding sources, and schedule for
24 project completion.

25 (c) The application shall specify the phases of work for which
26 an eligible applicant is seeking an allocation of moneys from the
27 ~~program, as appropriate:~~ *program*.

28 ~~(1) Studies, environmental review, and permits.~~

29 ~~(2) Preparation of project plans and specifications.~~

30 ~~(3) Right-of-way acquisition.~~

31 ~~(4) Construction or procurement.~~

32 (d) The application shall identify the sources and timing of all
33 moneys required to undertake and complete any phase of a project
34 for which an eligible applicant is seeking an allocation of moneys
35 from the program. The application shall also describe intended
36 sources and timing of funding to complete any subsequent phases
37 of the project, through construction or procurement.

38 (e) The application shall include information describing the
39 funding sources and approach to ensuring ongoing operating and

1 maintenance costs of the project are funded through the useful life
2 of the project, as applicable.

3 (f) Eligible applicants may submit more than one application
4 for grants under the program pursuant to this section.

5 (g) *An eligible applicant may use a project study report or*
6 *equivalent document to demonstrate eligibility of a project for*
7 *inclusion in the five-year program of projects pursuant to Section*
8 *75224. The project study report or equivalent document shall, at*
9 *a minimum, be adequate to define and justify the project scope,*
10 *cost, and schedule for the project application.*

11 SEC. 4. Section 75223 is added to the Public Resources Code,
12 to read:

13 75223. (a) The Transportation Agency shall conduct at least
14 two public workshops on draft program guidelines containing
15 selection criteria prior to approval and shall post the draft
16 guidelines on the agency's Internet Web site at least 30 days prior
17 to the first public workshop. Concurrent with the posting, the
18 agency shall transmit the draft guidelines to the fiscal committees
19 and the appropriate policy committees of the Legislature.

20 (b) The Administrative Procedure Act (Chapter 3.5
21 (commencing with Section 11340) of Part 1 of Division 3 of Title
22 2 of the Government Code) does not apply to the development and
23 approval of procedures and program guidelines for the program
24 pursuant to this section.

25 SEC. 5. Section 75224 is added to the Public Resources Code,
26 to read:

27 75224. (a) No later than July 1, 2016, the Transportation
28 Agency shall ~~develop a five-year estimate of revenues, in annual~~
29 ~~increments, reasonably expected to be available to the program~~
30 ~~from the Greenhouse Gas Reduction Fund, and approve a program~~
31 of projects, which shall cover a period of five fiscal years,
32 beginning with ~~fiscal year 2016-17. the 2016-17 fiscal year.~~

33 (b) The Transportation Agency shall approve each subsequent
34 program of projects not later than April 1 of each even-numbered
35 ~~year based on a five-year estimate of revenues, year, in annual~~
36 increments. Each subsequent program shall cover a period of five
37 fiscal years, beginning July 1 of the year of approval, and shall be
38 a statement of intent by the Transportation Agency for the
39 allocation and expenditure of moneys during those five fiscal years.

1 (c) *In developing the program of projects, the Transportation*
2 *Agency shall seek to maximize the total amount of reductions in*
3 *emissions of greenhouse gases that would be achieved under the*
4 *program.*

5 ~~(e) In cooperation with the commission,~~

6 (d) *At the request of an eligible applicant, the Transportation*
7 ~~Agency~~ *Agency, in cooperation with the commission, may enter*
8 *into and execute a multiyear funding agreement with an eligible*
9 *the applicant for a project that is proposed to be funded from the*
10 *program over a period of more than one fiscal year. The agreement*
11 *shall include a proposed schedule of the amount of moneys*
12 *expected to be provided to the eligible applicant for each fiscal*
13 *year of the agreement and may be for a period that extends beyond*
14 *the five fiscal years covered by the program of projects.*

15 SEC. 6. Section 75225 is added to the Public Resources Code,
16 to read:

17 75225. (a) A lead applicant agency may apply to the
18 commission for a letter of no prejudice for a project or for any
19 component of a project included in the five-year program of
20 projects approved by the Transportation Agency. If approved by
21 the commission, the letter of no prejudice shall allow the lead
22 applicant agency to expend its own moneys for the project or any
23 component of the project and to be eligible for future
24 reimbursement from moneys available for the program from the
25 Greenhouse Gas Reduction Fund.

26 (b) The amount expended under subdivision (a) shall be
27 reimbursed by the state from moneys available for the program
28 from the Greenhouse Gas Reduction Fund if all of the following
29 conditions are met:

30 (1) The project or project component for which the letter of no
31 prejudice was requested has commenced, and the regional or local
32 expenditures have been incurred.

33 (2) The expenditures made by the lead applicant agency are
34 eligible for reimbursement in accordance with applicable laws and
35 procedures. If expenditures made by the lead applicant agency are
36 determined to be ineligible, the state has no obligation to reimburse
37 those expenditures.

38 (3) The lead applicant agency complies with all legal
39 requirements for the project, including the requirements of the

1 California Environmental Quality Act (Division 13 (commencing
2 with Section 21000)).

3 (4) There are moneys in the Greenhouse Gas Reduction Fund
4 designated for the program that are sufficient to make the
5 reimbursement payment.

6 (c) The lead applicant agency and the commission shall enter
7 into an agreement governing reimbursement as described in this
8 section. The timing and final amount of reimbursement is
9 dependent on the terms of the agreement and the availability of
10 moneys in the Greenhouse Gas Reduction Fund for the program.

11 (d) The commission, in consultation with intercity, commuter,
12 urban rail, and other public transit entities, may develop guidelines
13 to implement this section.